

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
October 24, 2013

Meeting called to order at 6:06 p.m.

Board Members Present: Tom Emerson, Mark Alesse, Ann Grinnell, Bob Melanson

Members absent: Deborah Driscoll

Staff: Gerry Mylroie, Planner

Mr. Emerson noted there is a quorum to conduct business.

Pledge of Allegiance

Minutes:

Ms. Grinnell moved to approve the minutes of October 10, 2013 as corrected

Mr. Melanson seconded

Unanimous by all members present

Public Comment: There was no public comment.

PUBLIC HEARING/OLD BUSINESS

ITEM 1 – Town Code Amendment - Title 16.10.9.1.4. Approved Plan Expiration.

Discuss proposed amendment and make a recommendation to Town Council. Proposed amendment includes to replace “or” with “and” and change the period of time in which extensions can be granted.

Mr. Mylroie explained this is back before the Board as a public hearing since substantial changes were made at a prior public hearing.

Public Hearing opened at 6:11 p.m.

Earldean Wells stated she was unclear about the wording. It was explained the Planning Board will make a decision on a case by case basis as denoted by the use of ‘may or may not’ in the new language.

There was no further testimony.

Public Hearing closed at 6:13 p.m.

Ms. Grinnell moved to accept amendments to Section 16.10.9.1.4 and 16.5.2.4 as presented, [following]:

16.10.9.1.4.A The Planning Board may or may not, by formal action, grant extensions for an inclusive period from original approval date not to exceed five (5) years.

16.10.9.1.4.B The Planning Board may or may not, by formal action, grant extensions for an inclusive period from original approval date not to exceed three years.

16.5.2.4 A permit expires if no substantial work has been commenced within six months from date of issue and expires if work is not substantially completed within two years from date of issue.

Mr. Melanson seconded

Mr. Alesse wondered whether the Board needed a definition for ‘substantially complete’. Mr. Emerson stated this is on the list for future discussion.

Motion carried unanimously by all members present

Mr. Mylroie noted this will be forward to Council for approval. Ms. Grinnell noted amendments accepted by the Board automatically go to Council for approval.

ITEM 2 – Town Code Amendment – Title 12.1 Excavations.

Discuss proposed amendment and make a recommendation to Town Council. Amend Section 12.1.2 Issuance and Record of Permits to include review by the Town Planner and Code Enforcement Officer prior to the Commissioner of Public Works issuing permits for driveway cuts.

Mr. Mylroie stated this is before the Board as there was no quorum at the prior review.
Public Hearing opened and closed at 6:15 p.m. There was no testimony.

Ms. Grinnell moved to include the following language to Title 12.1.2 Issuance and Record of Permits:
Prior to the issuance of a Driveway Entrance Permit, the application also must be submitted for review and approval by the CEO and Town Planner to assure conformance with adopted plans and Town Code. Proposed driveways longer than 100 feet in length or 12 feet in width require Planning Board approval.

Mr. Melanson seconded

Motion carried unanimously by all members present.

ITEM 3 – Town Code Amendment – Title 16, Chapter 11, Marine Development.

Discuss proposed amendment and make a recommendation to Town Council. Amendments include changes to procedures allowing for Port Authority application submittal prior to obtaining State and Federal permit approvals.

Mr. Mylroie explained this is the second public hearing for this item as there were substantial changes at the prior hearing.

Public Hearing opened and closed at 6:18 p.m. There was no testimony.

Ms. Grinnell moved that amendments to Title 16.11 Marine-Related Development, dated October 24, 2013, be accepted.

Mr. Melanson seconded

Motion carried unanimously by all members present.

ITEM 4 – Town Code Amendment - Chapter 7, Article 3 Nonconformance, Title 16 Land Use Development Code. Amendment includes changes to 16.7.3.5.10. Contiguous Non-Conforming Lots that would allow for more consistent adjustment to lot-lines. Applicants Mary Thron and Ray Arris, Kittery residents.

Mr. Mylroie explained due to ongoing discussions with the DEP, the applicant has requested that this item be continued to a future date.

Ms. Grinnell moved to continue review of this item to a later date to be determined

Mr. Melanson seconded

Motion carried unanimously by all members present.

ITEM 5 – Board Member Items / Discussion

A. Review By-Law changes; [not provided for review]

B. Other – Re: Roylos: No violation on property; applicant will re-submit plan with septic/soils report

Mr. Emerson explained the prior vote was made without four like votes at the October 10 meeting, so the extension granted is not in force and the approval period has lapsed. Mr. Mylroie explained the applicant is requesting to utilize septic systems instead of the required sewer line connection and would, therefore, have to submit an amendment to an approved plan; therefore, the approved plan no longer needs an extension. Discussion followed regarding the Board action, and Ms. Grinnell noted the application lapsed due that action. Mr. Melanson stated it appears the applicant must resubmit his application to the Board as the prior application has expired. Ms. Grinnell noted he does not have a violation on the property and this is no longer an issue.

C. Receiving information from the Conservation Commission prior to the Board meeting;

Ms. Grinnell stated she would like to have comments from the Conservation Commission prior to the meeting in a timely manner so they can process what is presented. Mr. Mylroie suggested the Public Hearing may be the appropriate time for the Commission to submit comment.

Earldean Wells noted the Commission receives and reviews the Board packet one week prior to the meeting. She said she used to submit comments in writing, but the Board decided they did not want comments in writing. Now the only time to voice concerns or comments is during the meeting. Mr. Emerson noted written comments can be submitted and reviewed up to the public hearing and the Board could ask for more information at that time if warranted. Ms. Grinnell noted there are multiple meetings prior to a public hearing where written comments could be incorporated in Board materials. Ms. Wells stated there are site walks as well. It was noted that written comments by the Commission will become part of the applicant's file, and will be an accurate representation. Mr. Emerson suggested that the Board needs to be sure they have all the information they need prior to making a decision, and Commission input is part of that process.

Mr. Emerson noted the Council will be appointing Board members on 10/28/13, including Bob Melanson, Ann Grinnell and himself, in addition to a new appointee to replace Rich Balano.

Discussion proceeded regarding political signs in the traffic/memorial circle. It was noted that political signage is allowed for a specified period of time per code. There is no specific reference to the traffic circle. An individual could make a recommendation to Council regarding political signage or location of said signage.

ITEM 6 – Town Planner Items:

A. Town Code Amendments Outdoor Seating; and others

Mr. Mylroie explained Title 5 would be amended to eliminate any expiration date. Title 16 amendments would allow for outdoor seating in additional zones and include an entirely new Article XXIX Outdoor Seating/Cafe. He explained this was part of the original idea that has been seasonally tested in the Kittery Foreside area. Ms. Grinnell suggested this should be work shopped with a full complement of Board members. It was noted there was no procedural follow-up or feedback as requested for the previous trial. There is no indication in Title 5 that Title 16 and Planning Board review and approval is required. Mr. Alesse asked if the Board should develop standards for materials used.

B. Quality Improvement Overlay Zone – Mr. Mylroie summarized there are sites in town that may need code modification to develop in a manner that best benefits the town as well as the developer. The proposed amendment would give the Board the flexibility to review modified development proposals. Mr. Emerson referred to the Dansk/KTP site noting development of this site following code requirements would result in a development that would not be practical or visually appealing. Mr. Mylroie explained a flexible approach would allow for landscaping and pedestrian friendly uses in setbacks, for which the code does not currently provide. Ms. Grinnell asked if this type of amendment would be for an entire zone or for a particular parcel within a zone, and would that be spot zoning. Mr. Emerson stated it could be a single parcel or multiple parcels where the area could be re-zoned or possibly modified. She noted the proposed 60-foot building height was rejected in the past and believes a number of workshops will be needed to further discuss this proposal. Following discussion, it was determined that no discussion could be scheduled prior to the year's end and that the Comprehensive Plan Update Committee should be invited to any discussions. Mr. Melanson suggested including the Business Park in discussions. Mr. Mylroie stated it was his understanding that there was little interest in changing building heights on the east side of Route 1, but not so between Route 1 and I-95.

Ms. Grinnell asked that the Board get together to review process and procedure once a full Board is in place after the first of the year.

C. Town Comprehensive Plan Update Status – no report

D. Other Town Comprehensive Plan Implementation Activities – no report

- E. Other – Mr. Mylroie explained peer review comments to MDOT regarding the circle and ramps have delayed MDOT's report to the Board. MDOT would like some feedback by the first of December. It was recommended to include this on the November 14 meeting agenda.

Upcoming meetings:

- November 7, 2013, 6:30 p.m. – Shore and Harbor Comprehensive Plan – with the KPA, Council and Comprehensive Plan Committee – Council Chambers.
- November 20, 2013, 6:00 p.m. – Sarah Long Bridge landing area plans – Kittery Community Center.
- November 14, 2013, 6:00 p.m. – Soil Suitability workshop – Council Chambers.
- December 12, 2013, 6:00 p.m. – Planning Board meeting – Council Chambers

Ms. Grinnell moved to adjourn

Mr. Melanson seconded

Motion carried unanimously

The Kittery Planning Board meeting of October 24, 2013 adjourned at 7:26 p.m.

Submitted by Jan Fisk, Recorder, November 3, 2013